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FROM John D. Lanza NUMBER OF PAGES 8 (including this cover page)

DATE May 24, 2006 CLIENT NUMBER 2006579-0221 (CTX-061)

PHONE (617) 248-4801 OPERATOR D. Goodison TIME SENT

REMARKS:

Applicant: Richard Hayton et al. Examiner: Tran, Quoc A.
Serial No.: 09/704,896 Art Unit: 2176
Filing Date: November 2, 2000
Title: METHODS AND APPARATUS FOR INCORPORATING A PARTIAL PAGE
ON A CLIENT

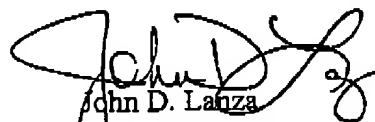
Examiner Tran,

Transmitted herewith for filing in the above-referenced application, please find the following documents:

1. Pre-Appeal Brief Request for Review (1 page);
2. Notice of Appeal Under 37 C.F.R. § 1.191 (1 page);
3. Pre-Appeal Brief Request for Review (6 pages); and
4. This Facsimile Transmittal (1 page).

Kindly acknowledge receipt of the attached documents by return facsimile transmission. Thank you for your kind attention to this request.

Respectfully Submitted,


John D. Lanza
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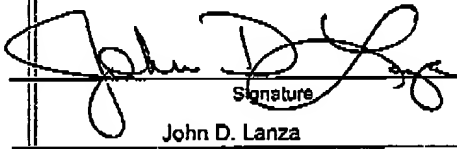
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 2006579-0221 (CTX-061)	
I hereby certify that this correspondence is being deposited via facsimile to 571-273-8200.		Application Number 09/704,896	Filed December 2, 2000
on May 24, 2006		First Named Inventor Richard Hayton	
Signature <u>Ruth Dolan</u>		Art Unit 2176	Examiner Quoc Q. Tran
Typed or printed name <u>Ruth Dolan</u>			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		John D. Lanza Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>John D. Lanza</u>		617-248-5000 Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		May 24, 2006 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required. see below.			
<input type="checkbox"/> Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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ATTORNEY DOCKET NO. 2006579-0221 (CTX-061)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hayton, et al. Examiner: Tran, Quoc A.
Serial No.: 09/704,896 Art Unit: 2176
Filing Date: November 2, 2000
Title: METHODS AND APPARATUS FOR INCORPORATING A
PARTIAL PAGE ON A CLIENT
Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence being facsimile transmitted to the U.S. Patent and Trademark Office, facsimile No. (571) 273-8300 on May 24, 2006.


Name: Ruth Dolan

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office Action mailed February 24, 2006, and accompanying a Notice of Appeal to the Board of Appeals and Interferences in the United States Patent and Trademark Office appealing the rejection of pending claims 1, 3-11, 13-15, 17 and 18 in the above-referenced case, Applicants request that a pre-appeal brief review be conducted and that consideration be give to the following remarks, pursuant to the July 12, 2005, Official Gazette Notice titled "New Pre-Appeal Brief Conference Pilot Program."

Applicants submit that (1) essential elements required to establish a prima facie rejection are omitted from the Examiner's rejection and (2) the Examiner's rejection contains clearly improper rejections based upon errors in facts.

The application was filed on November 2, 2000. In the first Office Action, mailed on February 9, 2004, the Examiner rejected claims 1-14 and 16-18 under 102(b) as unpatentable over Nazem et al. (hereinafter Nazem) US No. 5,983,227 and rejected claim 15 under 103(a) as

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unpatentable over Nazem, in view of Nehab et al. (hereinafter Nehab) US No. 6,029,182. In that Office Action, the Examiner admitted that Nazem does not explicitly teach an external page code source or a partial page regenerator. *See* Office Action of February 9, 2004, pages 7-8. The Examiner relied upon Nehab to teach the partial page regenerator.

Applicants filed an amendment and response on July 9, 2004, amending the claims to overcome the rejection and to recite: "(a) receiving, at a client, a transmitted page comprising a plurality of dynamic portions."

On June 28, 2005, the Examiner issued a Final Office Action, rejecting claims 1, 3-11, 13-15, 17, and 18 under 103(a) as unpatentable over Nazem in view of Jeyaraman, US Patent No. 6,311,187 (hereinafter Jeyaraman). The Examiner admitted that Nazem does not explicitly teach the step of receiving, by the client, a modified version of one of the dynamic portions of the page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of one of the dynamic portions. The Examiner relied upon Jeyaraman for the receiving of a modified version of the dynamic portions of the page.

In the Remarks Accompanying a Request for Continued Examination, Applicants pointed out that Jeyaraman does not, in fact, teach or suggest receiving, by the client, a modified version of one of the dynamic portions of the page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of one of the dynamic portions because Jeyaraman states that it is inefficient for clients to receive new copies of modified data, as opposed to only the operations that generate the modifications. *See* Jeyaraman, col. 1, lines 40-50. Modifying Jeyaraman to transmit a modified version of a dynamic portion of a page would require changing the principle on which Jeyaraman operates.

In an Office Action mailed February 24, 2006, the Examiner rejected claims 1, 3-11, 13-15, 17, and 18. In stating that Applicant's arguments were not persuasive, the Examiner contradicted his twice-stated admission that Nazem fails to disclose a dynamic page generator, wherein a user front page is returned by a page server. The Examiner did not address the

Applicants statements arguing that Jeyaraman fails to teach or suggest receiving, by the client, a modified version of one of the dynamic portions of the page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of one of the dynamic portions. In fact, the Examiner simply repeated, almost verbatim, the arguments made in the June 28, 2005, Office Action, in which the Examiner admitted that Nazem fails to teach or suggest receiving, by the client, a modified version of one of the dynamic portions of the page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of one of the dynamic portions.

Additionally, in the most recent Office Action, the Examiner rejected claims 1 and 3-10 under 35 U.S.C. §101, raising the §101 rejection for the first time in two years of examination. Applicants will address each of the rejections below.

Rejection of Claims Under 35 U.S.C. §101

The Examiner rejected claims 1 and 3-10 as directed to non-statutory subject matter and as failing to set forth physical structures or materials comprising of hardware or a combination of hardware and software within the technological arts (i.e. a computer) to produce a useful, concrete and tangible result. However, claim 1 recites a client in the preamble, and in each of the steps, (a), (b), (c), and (d). A "client" is described as "any computing device (e.g., a personal computer, set top box, phone, handheld device, kiosk, etc.)" and includes a display and a storage buffer. See Specification, page 9, lines 1-4. Since the claims clearly recite physical structures as required by 35 U.S.C. §101, Applicants submit that there is clear error in the Examiner's rejection.

Rejection of Claims Under 35 U.S.C. §103(a)

Independent claims 1, 11, and 15 recite the step of receiving, at a client, a modified version of a dynamic portion of a page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of the dynamic portion of the page. (See claims 1, 11, and 15). Nazem provides an improved custom page server generating a page in response to a request for the page without the need to make requests from other servers for portions of live data. See Nazem, col. 1, lines 61-67, and col. 2 lines 8-11. The purpose of Nazem is to store live data in a local, shared memory for use by a server in

responding to requests from users. *See id.* One of ordinary skill in the art would not be motivated to modify a system for providing a pager server with improved access to live data to require receiving, by a client, modified version of one of the dynamic portions of the page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of one of the dynamic portions; transmission of a portion of a page and an identifier to a client would not improve the ability of a server to retrieve live data from other servers. Applicants submit that Nazem's failure to disclose, teach or suggest receiving a modified version of a dynamic portion of a page and an identifier specifying of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of the dynamic portion of the page is an omission by the Examiner of one or more essential elements needed for a prima facie rejection.

Furthermore, Jeyaraman also fails to teach or suggest receiving a modified version of a dynamic portion of a page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of the dynamic portion of the page. The Examiner relied upon Jeyaraman, stating that Jeyaraman "discloses a system and method of propagating updates efficiently in a hierarchically structured data under a push model to a client. ..." *See* Office Action of 2/24/2006, page 6. Jeyaraman fails to teach or suggest receiving, by a client, a modified version of one of the dynamic portions of a page. Jeyaraman focuses on specifying the operations needed to manipulate nodes within client copies of data and transmitting the operations in updates to clients. *See* Jeyaraman, col. 6, lines 54-59, and col. 7. Jeyaraman does not suggest receiving, by a client, a modified version of one of the dynamic portions of a page, because the purpose of Jeyaraman is to increase efficiency by transmitting only the operations that will result in changes to data, in particular for clients with limited memory space, such as thin clients. One of ordinary skill in the art would not be motivated to modify Jeyaraman to enable transmission of a modified version of a dynamic portion of a page because Jeyaraman states that it is inefficient for clients to receive new copies of modified data, as opposed to only the operations that generate the modifications. Modifying Jeyaraman to transmit a modified version of a dynamic portion of a page would require changing the principle on which Jeyaraman operates. Applicants submit that because of this failure, the Examiner's rejection contains clearly improper rejections based upon errors in facts.


Accordingly, since Nazem and Jeyaraman, either alone or in combination, do not teach or suggest receiving a modified version of a dynamic portion of a page, as required by claims 1, 3-11, 13-15, 17 and 18, Applicants submit that there is clear error in the Examiner's rejections and that the rejection omits one or more essential elements needed for a prima face rejection and that the rejection contains clearly improper rejections based upon errors in facts.

CONCLUSION

In view of the above remarks, Applicants believe the pending application is in condition for allowance. Applicants believe no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 03-1721.

Respectfully submitted,
Choate, Hall & Stewart, LLP

Dated May 24, 2006

By: 
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